

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Marvin W. Grace,**  
Petitioner-Appellant,

v.

**Warren County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-91-0364**  
**Parcel No. 19-000-31-0441**

On June 18, 2012, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Marvin W. Grace was self-represented and submitted evidence in support of his petition. The Warren County Board of Review designated County Attorney John Criswell as its counsel. County Assessor Brian Arnold appeared at the hearing on its behalf. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Marvin W. Grace, owner of property located at 19253 Cherry Street, Carlisle, Iowa, appeals from the Warren County Board of Review's decision regarding his property. The real estate was classified residential for the January 1, 2011, assessment and valued at \$80,100; representing \$52,500 in land value and \$27,600 in dwelling value.

Grace protested to the Board of Review on the ground that there was an error in the assessment under Iowa Code section 441.37(1)(d). However, the error he stated was that the value was excessive when considering the property's water problems, its distance from the metro area, and because values are declining. Essentially, Grace's claim was that the property was over assessed akin to a claim under section 441.37(1)(b). The Board of Review granted partial relief by giving a 25% obsolescence

adjustment to the land for location. It valued the property at \$66,600; representing \$39,400 in land value and \$27,200 in dwelling value.

Grace then filed an appeal with this Board. We will consider whether the property was over assessed because this was the substance of Grace's claim. He now asserts the correct value is \$50,000. His main issue is that he believes the land value increase was excessive. The value attributed to the land increased from \$17,900 to \$52,500, which was subsequently lowered to \$39,400 by the Board of Review. Grace believes the land value should be \$22,500.

The subject property is a one-story, frame dwelling built in 1920. The property has 800 square feet, with a full, unfinished basement, an 80-square foot deck, and an 80-square foot enclosed porch. There is also a 960 square-foot garage built in 1973 and a 504 square-foot barn built in 1950. The property is considered to be in poor condition. The site consists of 3.910 acres.

Grace testified that he purchased two parcels in 1999 for \$42,500. The purchase consisted of the house and a one-acre lot as well as a fenced pasture with a ravine that totaled approximately three acres. The pastureland is sloping, and the subject property is prone to flooding. Grace notes the property suffered from sewage backup, and the closest sewer is in Hartford, which is 25 miles away.

Grace noted his reason for protesting was the large increase in the assessed value of the land. As previously noted, the land value increased from \$17,900 to \$52,500, which the Board of Review subsequently lowered to \$39,400. Grace stated the subject property is a distance away from the metro area. The Warren County Assessor may have changed the classification of the property from agricultural to residential. A classification change could result in a substantial increase in land value. However, due to the mix up of sending the correct certified record, this is not clear. This Board was unable to resolve this issue at hearing since Assessor Arnold was present but did not testify. Moreover, Grace did not challenge the classification of the property in this appeal.

The Board of Review did not call any witnesses. It submitted one exhibit, a parcel map of the property.

Ultimately, after reviewing the record, we find that Grace has failed to prove that the property is over-assessed. Therefore, this Board must affirm the Warren County Board of Review's decision.

### ***Conclusions of Law***

The Appeal Board based its decision on the following law.

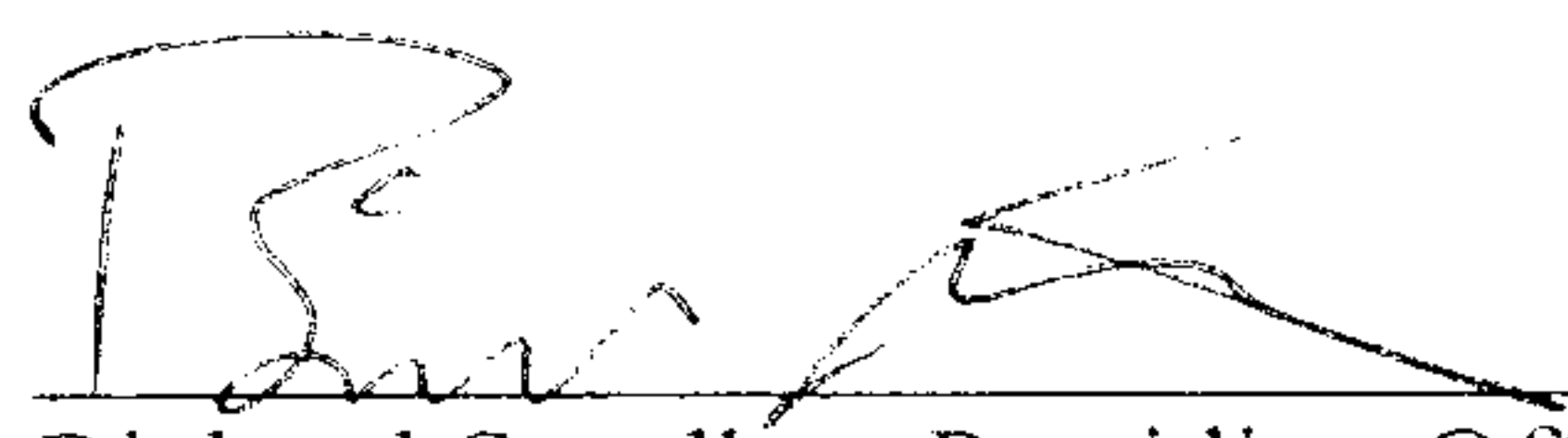
The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

The substance of Grace's claim was that the property is over assessed. In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). We note Grace also originally contended there was an error in the assessment because of the value had increased and he believed the market had decreased. However, the evidence does not establish that the subject property is over assessed.

THE APPEAL BOARD ORDERS Marvin W. Grace's property assessment as of January 1, 2011, as determined by the Warren County Board of Review is affirmed.

Dated this 20 day of August 2012.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

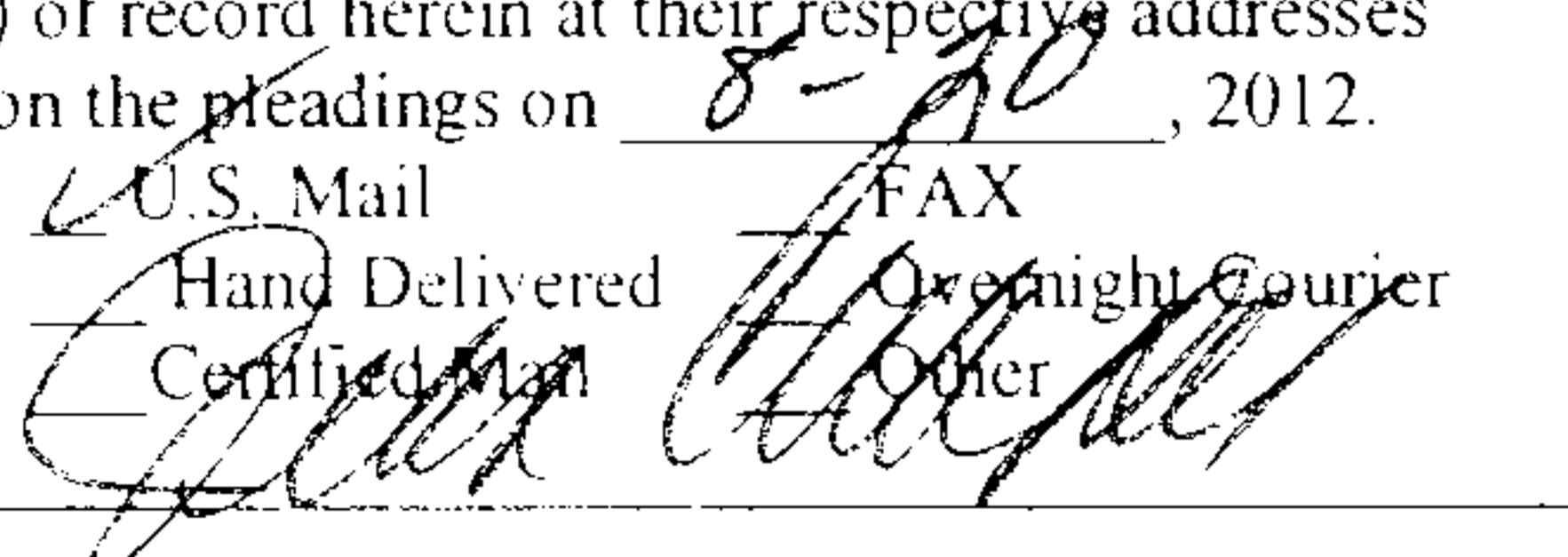
  
Karen Oberman, Board Member

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| Certificate of Service   |   |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-20</u> , 2012. |   |
| By:  | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX            |
|  | <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier    |
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| Signature  |  |